

30 SEP 2005

UNITED STATES PATENT AND TRADEMARK OFFICE



COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. Box 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

FULBRIGHT & JAWORSKI L.L.P.
600 CONGRESS AVE.
SUITE 2400
AUSTIN TX 78701

In re Application of	:	DECISION ON
Isaiah J. Fidler et al	:	
Application No.: 10/532,551	:	
PCT No.: PCT/US2003/033395	:	
Int. Filing Date: 21 October 2003	:	PETITION UNDER
Priority Date: 22 October 2002	:	
Attorney's Docket No.: UTSC:767US	:	
For: ACTIVE SPECIFIC IMMUNOTHERAPY	:	
OF CANCER METASTASIS	:	37 CFR 1.137(b)

This decision is in response to applicant's "Petition For Revival Of An International Application For Patent Designating The U.S. Abandoned Unintentionally Under 37 CFR 1.137(b)," filed on 20 September 2005.

BACKGROUND

On 21 October 2003, this international application was filed, claiming an earliest priority date of 22 October 2002.

The deadline for paying the basic national fee in the United States under 35 U.S.C. 371 and 37 CFR 1.495 was 22 April 2005. This international application became abandoned with respect to the United States at midnight on 22 April 2005 for failure to pay the required basic national fee.

On 22 April 2005, applicant filed in the United States Patent and Trademark Office (PTO) a transmittal letter for entry into the national stage in the U.S. under 35 U.S.C. 371, which was accompanied by, *inter alia*, the copy of the international application, and an executed declaration. However, the national basic fee was not provided at such time.

On 17 August 2005, the United States Patent and Trademark Office mailed the Notification of Abandonment (PCT/DO/EO/909) since the application was abandoned for failure to pay the basic national fee by 30 months.

On 20 September 2005, applicants filed the instant petition under 37 CFR 1.137(b), which was accompanied by the petition fee.

DISCUSSION

A grantable petition to revive an abandoned application under 37 CFR 1.137(b) must be accompanied by (1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application; (2) the petition fee as set forth in § 1.17(m); and (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and (4) any terminal disclaimer (and fee as set forth in § 1.20 (d)) required pursuant to paragraph (c) of this section.

Petitioner has provided: (1) the proper reply by submitting the basic national filing fee, (2) the petition fee set forth in § 1.17(m) and (3) the proper statement under 137(b)(3). In this application, no terminal disclaimer is required.

Accordingly, the petition is deemed to satisfy requirements (1), (2), (3), and (4) under 37 CFR 1.137(b).

DECISION

The petition under 37 CFR 1.137(b) is GRANTED.

This application is being returned to the United States Designated/Elected Office (DO/EO/US) for continued processing.



Rafael Bacares

PCT Legal Examiner

PCT Legal Office

Telephone: (571) 272-3276

Facsimile: (571) 273-0459